

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Andrew Green and Shirley Green, as legal)
guardians of N.G. (a minor child) and)
Andreia Samoria Green) Case No. 2:19-cv-00366-RMG
)
Plaintiffs,)
) **PLAINTIFFS' VERIFIED PETITION FOR**
v.) **APPROVAL OF MINOR SETTLEMENT**
) **IN ACCORDANCE WITH S.C. CODE §**
Kanye West; Getting Out Our Dreams, II,) **62-5-433 AND LCR 17.02**
LLC; UMG Recordings, Inc. a/k/a)
Universal Music Group; Def Jam)
Recordings; Cydel Young d/b/a Mr.)
Redan Music a/k/a Mr. Redan; BMG)
Rights Management (US), LLC a/k/a)
BMG Platinum Songs US and John Does)
1-30;)
)
Defendants.)

The parties have settled this action. Plaintiffs, with the consent of Defendants Kanye West, Getting Out Our Dreams, II, LLC, UMG Recordings, Inc. a/k/a Universal Music Group, and Def Jam Recordings (“Defendants”), moves this Court to approve the settlement of N.G.’s claims against Defendants Kanye West, Getting Out Our Dreams, II, LLC, UMG Recordings, Inc. a/k/a Universal Music Group, and Def Jam Recordings in this matter. Defendants are represented by John McElwaine and Robert Whelan with Nelson Mullins Riley & Scarborough, LLP, as well as Eleanor Lackman and Mark Humphrey of Mitchell Silberberg & Knupp, LLP. All parties are properly represented and are properly before the court.

Legal and factual basis of Plaintiffs Andrew Green and Shirley Green to Seek Approval

Plaintiffs Andrew and Shirley Green are the adoptive parents of N.G. (a minor child and citizen and resident of Fairfield County, South Carolina) pursuant to a December 10, 2012 Order of Adoption of the Fairfield County Family Court (case number 2012-DR-20-234). Andrew and

Shirley Green have had physical custody of N.G. from birth until present, and they have provided for the health, safety, care, and nourishment of N.G. from birth to present. Plaintiff Andrew Green has been appointed as the conservator of N.G. by order of the Fairfield County Probate Court dated October 28, 2020 (case number 2020-GC-200004).

Nature of the Action

This is an action seeking damages for the alleged unauthorized sampling of audio of N.G. and Plaintiff Andreia Green praying in January of 2016.

- a. Plaintiffs allege Defendants are liable, both directly and vicariously/contributorily, for copyright infringement. 17 U.S.C. § 504(c)(2).
- b. Plaintiffs allege Defendants are liable for knowingly and intentionally communicating false copyright management information, in violation of the Digital Millennium Copyright Act. 17 U.S.C. § 1202(a)(1); 17 U.S.C. § 1202(c)(2), (c)(3), & (c)(6).
- c. Plaintiffs allege Defendants are liable for injuries resulting from their violation of Andreia Green and N.G.'s rights of publicity.
- d. Plaintiffs allege Defendants are liable for violations of the South Carolina Unfair Trade Practices Act. S.C. Code § 39-5-10, *et seq.*
- e. Defendants deny Plaintiffs' allegations in full and deny any liability or wrongdoing. Defendants have asserted counterclaims, and Plaintiffs have denied that the counterclaims have merit.

The parties mediated the case on December 20, 2019, with Sam Clawson, and again on September 30, 2020, with Leon Friedman. After almost two years of hard-fought litigation, Mr. Friedman was able to assist the parties in reaching a resolution of all claims at issue in this action.

Fairness and Reasonableness of the Settlement

Plaintiffs' counsel investigated the claim, drafted and filed the Complaint and Amended Complaint, conducted extensive written discovery, located and retained experts, drafted motions and performed significant legal analysis regarding Plaintiffs' claims. Further, the parties filed ten discovery and dispositive motions, along with the respective responses and replies to these motions. This case was also mediated twice.

An extensive investigation has been made into the facts and circumstances regarding the injury in this claim, and the undersigned have been fully advised their rights and responsibilities. Plaintiffs' counsel has advised Plaintiffs of the various possibilities and uncertainties of trial and Plaintiffs, having been fully informed, have decided it is in N.G.'s best interests to settle this case.

The Nature and Extent of the Injuries

The Plaintiffs allege N.G. suffered monetary damages as a result of the unauthorized use of the digital audio of the sample that includes N.G.'s voice. The damages Plaintiffs sought on behalf of N.G. were those N.G. claimed resulted from the personal injuries arising out of the allegedly unauthorized sampling of N.G. as well as all gains, profits and advantages obtained by Defendants as a result of Defendants' alleged acts of infringement as outlined in Plaintiffs' Amended Complaint.

Terms of Settlement and Explanation of How Proceeds will be Distributed

Plaintiffs have agreed to a dismissal of this action with prejudice in exchange for good and valuable consideration made by or on behalf of Defendants. There has been sought and obtained from Defendants an offer of settlement whereby they have agreed to pay a total sum of \$350,000.00, in exchange for a Confidential Settlement and Mutual Release Agreement which fully resolves any and all claims arising from or related to this action. Plaintiff Andreia Samoria

Green, an adult, will receive a portion of the global settlement amount. There are no known, anticipated, or potential disputes as to the distributions of proceeds or approval of the settlement.

Below is a full and complete description of the material substantive terms agreed upon by the

Plaintiffs and Plaintiffs' counsel:

Global Settlement Amount	\$	350,000.00
Net Settlement Proceeds	\$	185,196.96
Proceeds Payable to Andreia Green	\$	60,000.00
Proceeds Payable to Andrew Green, as Conservator for N.G.	\$	125,196.96
Attorney Fees (40% Contingent Fee) Paid to Luck VI, Ltd. Co. d/b/a Jason Scott Luck, Attorney at Law and Lesemann & Associates, LLC:	\$	140,000.00
Litigation Expenses Paid to Luck VI, Ltd. Co. d/b/a Jason Scott Luck, Attorney at Law and Lesemann & Associates, LLC:	\$	24,803.04

Plaintiffs believe that the terms of the settlement, as well as the costs and fees, are fair and reasonable and in the best interests of N.G., and they ask the Court to approve the settlement. The undersigned have fully and carefully considered the aforesaid settlement offer and are of the opinion that under the circumstances this offer of settlement is reasonable and proper and in the best interests of N.G., a minor, and adequately protects her interests.

Upon approval by the Court of the proposed settlement in this action, Plaintiff Andrew Green, as the duly appointed Conservator of N.G., prays that he be authorized to execute the written Confidential Settlement and Mutual Release Agreement between N.G. and Defendants, and their executors, insurers, administrators, personal representatives, successors and assigns.

WHEREFORE, the undersigned prays that:

- i. The settlement between Plaintiffs and Defendants is approved, and the Court authorizes Plaintiffs' counsel to proceed as directed under the parties' agreement; and

ii. The above-referenced action is dismissed with prejudice with both sides to bear their own attorneys' fees and without costs to any party.

Dated: 11/01/2020

By: /s/ J. Taylor Powell

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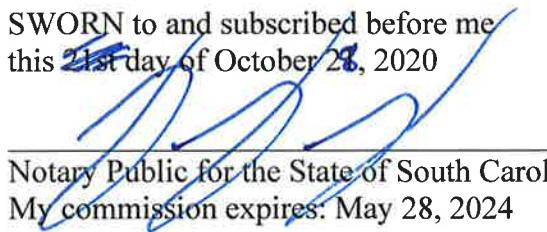
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PERSONALLY appeared before me, Andrew Green, as the duly appointed Conservator of N.G., a minor child, who, after being duly sworn, deposes and states that he is the Petitioner in the foregoing Petition, and as such that he has read the allegations contained therein and knows same to be true to the best of his own knowledge, excepting such matters and things which are based upon information and belief, and as to those, he believes same to be true also.


Andrew Green, as Conservator for N.G.

SWORN to and subscribed before me
this 21st day of October 28, 2020


Notary Public for the State of South Carolina
My commission expires: May 28, 2024